

REMARKS

Claims 1-9 are pending in this application. Claims 5, 8 and 9 have been withdrawn from consideration. Claims 1-4, 6 and 7 stand rejected pursuant to the pending office action. By the amendments herein, claim 1 has been amended solely for clarification purposes (in order to comply with 35 U.S.C. § 112, second paragraph), and not to distinguish the claimed subject matter from the prior art. Claims 6 and 7 have been canceled. New claims 10-13 have been added.

Review of Drawings

Pursuant to the request of the examiner, applicant has reviewed the drawings to ensure that (1) all referenced characters in the drawings are described in the Detailed Description portion of the specification, and (2) all referenced characters mentioned in the specification are included in the appropriate drawing figure(s) as required by 37 C.F.R. 1.84(p) (5) .

Rejections Under 35 U.S.C. § 112, Second Paragraph

Claims 1-4, 6 and 7 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Specifically, the examiner argues that there is no antecedent basis for "the discharge ends" in claim 1. By the amendments to claim 1 herein, the examiner's position has been addressed. Claims 6 and 7 have been canceled. Accordingly, applicant requests that the rejection of claims 1-4 under 35 U.S.C. § 112, second paragraph, be withdrawn.

Rejection Under 35 U.S.C. § 102

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Hayashi et al. (U.S. Pat. No. 4,318,678). Applicant respectfully traverses this rejection.

Each of the claims in the present application is limited to an apparatus having a second continuous discharge conveyor comprising "a receiving end with a longitudinal axis, and a discharge end, and being rotatable about the longitudinal axis." In other words, the second continuous discharge conveyor rotates about its receiving end.

This is in direct contrast to the conveyor (15, 15') of Hayashi et al. which rotates about its discharge end. Accordingly, Hayashi et al. does not anticipate any of the claims and the rejection of claim 1 under 35 U.S.C. § 102(b) is in error and should be withdrawn. For this same reason, no similar rejection should be applied to new claims 10-13.

Moreover, no rejection of claims 1-4 and 10-13 should be made under 35 U.S.C. § 103(a). Hayashi et al. teaches a very different machine than that which is claimed in this application, and the machine taught in Hayashi et al. performs a substantially different purpose. In Hayashi et al., a portion of the objects disposed along a continuous conveyor are lifted off of that continuous conveyor by a second conveyor. The objects are thereafter elevated by the second conveyor, inverted and dropped back down onto the continuous conveyor. It is for

this purpose that the second conveyor is caused to pivot about its discharge end. Only when designed in this manner is the invention taught by Hayashi et al. capable of lifting objects off of the first continuous conveyor, elevating them, inverting them and redepositing them onto the first conveyor. Hayashi et al. does not consider the problem faced by the inventor of the present application, that is, how to combine delivery of objects from a first transport conveyor to objects from a second transport conveyor. Accordingly, the machine taught by Hayashi et al., although having some similar components of the apparatus claimed in the present invention, is a completely different machine and not one which should make the apparatus claimed in the present invention obvious to those of ordinary skill in the art.

One component similar to both the machine taught by Hayashi et al. and the apparatus claimed in the present invention is the articulating second conveyor. However, in the machine taught by Hayashi et al., the articulating second conveyor is disposed backwards from the disposition of the articulating second conveyor in the apparatus of the invention. There is nothing in Hayashi et al., or any of the other references cited herein, which would suggest or offer incentive to those of ordinary skill in the art to reverse the disposition of the articulating second conveyor taught in the Hayashi et al. machine to address the problem solved by the invention. Accordingly, Hayashi et al. neither alone or in combination with other references cited in this application, made the invention obvious to those of ordinary skill in the art.

Claims 2-4 and New Claims 10-12

Claims 2-4 have been rejected under 35 U.S.C. § 112, second paragraph, but have not been rejected over the prior art. Accordingly, applicant has rewritten claim 2 as new claim 10 to address the examiner's rejection of claim 2 under 35 U.S.C. § 112, second paragraph, and to place claim 2 in independent form (by incorporating all of the limitations of claim 1). New claims 10 and 12 are identical to claims 3 and 4, except that they depend from claim 10 instead of claim 1. Accordingly, applicant believes that new claims 10-12 are in condition for allowance.

New Claim 13

New claim 13 is very similar to claim 1 except that instead of being limited to apparatuses having "means for pivoting the second discharge conveyor about the longitudinal axis between a lower position in which the discharge ends of the first discharge conveyor and the second discharge conveyor adjacent, and an upper position in which the discharge ends of the first discharge conveyor and the second discharge conveyor are spaced apart," the apparatus is limited to "means for pivoting the second discharge conveyor about the longitudinal axis between the lower position in which the discharge end of the second discharge conveyor is adjacent to the receiving conveyor and an upper portion in which the discharge end of the second discharge conveyor is spaced apart from the receiving conveyor." Accordingly, for the same reasons applicant has urged that claim 1 is now in condition for allowance, applicants

submit that new claim 13 is in condition for allowance.

CONCLUSION

For the reasons set forth above, applicant respectfully submits that all of the claims remaining in the application are now in condition for allowance. Accordingly, reconsideration, reexamination and allowance of all claims is requested.

Respectfully submitted,

SHELDON & MAK

Date: September 8, 2006

By: /Robert J. Rose/
Robert J. Rose
Reg. No. 47,037

Sheldon & Mak PC
225 South Lake Avenue, 9th Floor
Pasadena, California 91101-3021
Telephone: (626) 796-4000
Facsimile: (626) 795-6321
Customer No. 23676